

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

United States of America,

Plaintiff,

v.

Case No. 11-20342

Javon Journe-Durr,

Honorable Sean F. Cox

Defendant.

---

**ORDER DENYING DEFENDANT'S MOTIONS FOR EXTENSION OF TIME, IN  
FORMA PAUPERIS STATUS, AND TRANSCRIPTS**

Defendant Javon Journe-Durr pleaded guilty to possession of a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c). This Court sentenced Defendant on January 6, 2012, and this Court entered Judgment as to the Defendant on January 18, 2012 (Doc. #21). Defendant did not file a direct appeal.

Acting *pro se*, Defendant filed a document entitled “Motion to Issue Nunc Pro Tunc Order To Recall/Set Aside The Annulled Judgment and Commitment Order,” wherein Defendant asks this Court to “issue a Nunc Pro Tunc Order to recall the annulled Judgment” and “grant the Petitioner permission to exercise his Constitutional Right to a Direct Appeal” to the Sixth Circuit. (Doc. #21 ¶ 8). Defendant appears to be requesting that this Court grant Defendant an extension of time so that he may pursue a direct appeal of his conviction because his trial counsel negligently failed to do so.

This Court does not have the power to grant the relief Defendant requests. Typically, a criminal defendant must file a Notice of Appeal within fourteen days after entry of the judgment or

order appealed from. Fed. R. App. P. 4(b). “Upon a finding of excusable neglect or good cause, the district court may—before the time has expired, with or without motion and notice— extend the time to file a notice of appeal not to exceed 30 days of the expiration of the time otherwise prescribed by this Rule 4(b).” Fed. R. App. P. 4(b)(4). However, it is well settled that a district court has jurisdiction to excuse delay “only if a notice of appeal has actually been filed within the 30-day period following the expiration of the regular appeal time.” *U.S. v. Hoyer*, 548 F.2d 1271, 1273 (6th Cir. 1977). Thus, the Court’s power to extend Defendant’s time to appeal his judgment extinguished forty-four (44) days after it entered Judgment as to Defendant.

Defendant did not file a Notice of Appeal within the time period described in Rule 4(b), and this Court entered Judgment against Defendant over one year ago. Therefore, the Court DISMISSES Defendant’s Motion for Nunc Pro Tunc Order (Doc. #24) because the Court lacks jurisdiction to extend the time for Defendant to file a Notice of Appeal. The Court also DISMISSES Defendant’s Motion to Proceed In Forma Pauperis and Motion for Transcripts and Investigative Reports (Doc. #25) as MOOT.

**IT IS SO ORDERED.**

Dated: February 27, 2014

S/ Sean F. Cox  
Sean F. Cox  
U. S. District Court Judge

I hereby certify that on February 27, 2014, the foregoing document was served upon counsel of record by electronic means and upon Javon Journe-Durr by First Class Mail at the address below:

Javon Journe-Durr  
45879039  
FCC Forrest City  
P.O.Box 3000  
Forrest City, AZ 72336

Dated: February 27, 2014

S/ J. McCoy  
Case Manager